

**REMARKS/ARGUMENTS**

The specification has been revised to conform it to the preferred format for U.S. patent applications, and a Second Substitute Specification and Second Comparison Copy are submitted herewith.

Claims 22-41 are amended; claims 22-41 are pending in this application. No new matter is introduced by way of the amendments.

**Claim Rejections – 35 USC §112**

Claims 22-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees, but has amended the claims to expedite the prosecution of the application. Accordingly, the rejection has been overcome.

**Claim Rejections – 35 USC §102**

Claims 22-41 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Fontaine (U.S. Patent No. 2,620,542). Claims 22-41 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Musk (U.S. Patent Publication 2004/0129857). Claims 22-41 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by German reference DE 10336414 (DE '414). The rejections are traversed.

None of the above references teach nor suggest, *inter alia*, "two locking elements which ... are formed for the transmission of tensile forces from the formwork elements onto the bolt element and have coupling elements for the transmission of compressive forces from the formwork elements onto the bolt element" (emphasis added), as required by claim 22.

The present invention relates to a formwork system, the formwork elements 16, 17 of which are held in place using formwork ties. Suitable locking elements 2, 3 are adapted to be coupled at end regions of a bolt element 1, to reduce the tendency of the formwork elements 16, 17 to move away from each other due to the filling with concrete. Accordingly, tensile forces act on said bolt element 1. However, since said formwork elements 16, 17 may also move

towards each other due to the filling with concrete, said locking elements 2, 3 are provided with coupling elements 9, 10, which prevent the tendency of the formwork elements 16, 17 to move towards each other during the filling with concrete. Accordingly, compressive forces may also act on said bolt element 1 via the coupling elements 9, 10.

In other words, said locking elements 2, 3, and in particular their coupling elements 9, 10, impede the formwork elements 16, 17 from approaching each other by converting the approaching movement of the formwork elements 16, 17 via said coupling elements 9, 10 into compressive forces acting on the bolt element 1.

None of the formwork systems disclosed in references Fontaine, Musk, and DE '414 are adapted to impede an approaching movement of the formwork elements by converting such an approaching movement into compressive forces acting in bolt elements.

In Fontaine, cross bars 3 abut against the backside of formwork elements 2 (cf. figure 3) so as to keep the panels 2 at bay by means of tension rods 22. In case the panels 2 attempt to move away from each other, corresponding tensile forces will be acted onto said tension rods 22 via said cross bars 3. However, since there is no (form-fitting or positive) connection between panels 2 and cross bars 3, said panels 2 may approach each other unhindered, which means that no compressive forces can be converted from said formwork elements 2 into said tension rods 22. Accordingly, the panels 2 are free to move towards each other.

With regards to DE '414, facings 26 include the corresponding longitudinal beams 23, which can approach each other unhindered, because there are no (form-fitting or positive) connections between said facings 26 and the longitudinal beams 23, or between said longitudinal beams 23 and cross bars 24. Consequently, the anchor system disclosed in DE '414 also does not include any coupling elements which convert an approaching movement of formwork elements into corresponding compressive forces. Accordingly, the facings 26 are free to move towards each other.

The facing members 18 of Musk are not adapted to approach each other due to a spacer 48, 66 (see figure 2) over a thread rod 46, which is not the structure claimed. When the

facings 80 separate, no tensile forces are transmitted to tube 48. Accordingly, Musk requires two separate elements to transfer tensile and compressive force to, while the instant invention requires one bolt element. "Note that the omission of an element and retention of its function is an indicia of unobviousness." *In re Edge*, 359 F.2d 896, 149 USPQ 556 (CCPA 1966), MPEP 2144.04. The formwork system of Musk also does not include any coupling element which under tension makes a (form-fitting or positive) connection with the tie rod engagement portion.

Applicant respectfully requests that the Examiner separately address the rejections to the dependent claims, and make specific column and number or paragraph citations for all the dependent claims in the future.

For at least the above reasons, the cited references do not anticipate claim 22, and all claims dependent therefrom.

**Claim Rejections – 35 USC §103**

Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Fontaine in view of either Musk or Smith (U.S. Patent No. 3,198,476). Claims 35-37 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Fontaine in view of Strickland (U.S. Patent No. 4,159,097). Claims 35-37 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Musk in view of Strickland. These claims ultimately derive patentability from independent claim 22, and also include claim limitations which are not taught nor suggested by the prior art.

**CONCLUSION**

In view of the foregoing, applicant submits that this application is in condition for allowance, and a formal notification to that effect at an early date is requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 273-4380 (direct dial).

Respectfully submitted,

Christopher L. Willink  
Reg. No. 62,135

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Tel: (415) 576-0200  
Fax: (415) 576-0300  
C3W:lrj/jw  
62197713 v1